

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARK KAPITI,

Plaintiff,

-against-

RAYMOND W. KELLY, in his official capacity as
Commissioner of the New York City Police Department,
PROPERTY CLERK, New York City Police Department,
and THE CITY of NEW YORK,

Defendants.

**DECLARATION OF DAVID
M. HAZAN IN SUPPORT OF
DEFENDANTS'
MEMORANDUM IN
OPPOSITION TO
PLAINTIFF'S MOTION FOR
CLASS CERTIFICATION
AND RECONSIDERATION
OF ORDERS COMPELLING
THE UNSEALING OF
PLAINTIFF'S CRIMINAL
FILE**

07 Civ. 3782 (RMB)(KNF)

DAVID M. HAZAN, an attorney duly admitted to practice in the Courts of New York, declares, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following statements are true:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants City of New York, Police Commissioner Raymond W. Kelly, and the Property Clerk of the New York City Police Department ("NYPD"). I am familiar with the facts and circumstances stated herein and submit this declaration in support of defendants' memorandum of law in opposition to plaintiff's motion for class certification and reconsideration of orders compelling the unsealing of plaintiff's criminal file. In support of their memorandum of law in opposition to plaintiff's motion, defendants submit the exhibits described below:

2. Annexed as Exhibit "A" is a copy of the Complaint, filed on or about May 14, 2007.

3. Annexed as Exhibit "B" is a copy of the Answer to the Complaint on Behalf of Defendants City of New York, Police Commissioner Raymond W. Kelly, and the Property Clerk of the NYPD filed on or about August 3, 2007.

4. Annexed as Exhibit "C" is a copy of Plaintiff's Amended Disclosures Pursuant to Fed. R. Civ. P. 26 (A), dated November 7, 2007.

5. Annexed as Exhibit "D" is a copy of Defendants' Initial Disclosures Pursuant to Fed. R. Civ. P. 26 (A), dated October 9, 2007.

6. Annexed as Exhibit "E" is a copy of Defendants' Supplemental Disclosures Pursuant to Fed. R. Civ. P. 26 (A), dated April 9, 2008.

7. Annexed as Exhibit "F" is a copy of plaintiff's Notice to Take Deposition Upon Oral Examination, dated January 15, 2008.

8. Annexed as Exhibit "G" is a copy of a letter from ACC David M. Hazan to Steven L. Kessler, Esq., dated January 28, 2008.

9. Annexed as Exhibit "H" is a copy of a letter from ACC Philip S. Frank to Steven L. Kessler, Esq., dated May 7, 2008.

10. Annexed as Exhibit "I" are copies of the lease agreement for the lease of a 2006 Acura MDX, Vehicle Number 2HYD18666H516660, dated February 16, 2006.

11. Annexed as Exhibit "J" is a copy of a statement addressed to City of New York NYPD Legal Bureau, sworn by Tara Miles, Customer Account Representative for Honda Financial Services ("Honda"), dated May 30, 2006.

12. Annexed as Exhibit "K" is a copy of a release, signed by Tara Miles, an Authorized Agent of Honda Financial Services, dated May 30, 2006.

13. Annexed as Exhibit “L” is a copy of a Petition and Notice of Hearing signed by Gina Klein, New York City Police Department Legal Bureau, Civil Enforcement Unit.

14. Annexed as Exhibit “M” is a copy of the District Attorney Release for the 2006 Acura MDX, Vehicle Number 2HYD18666H516660, signed by ADA Rita Bieniewicz, dated August 9, 2006.

15. Annexed as Exhibit “N” is a copy of the Certification of Title for the 2006 Acura MDX, Vehicle Number 2HYD18666H516660, dated March 14, 2006.

16. Annexed as Exhibit “O” is a copy of the Authorization of Limited Liability Company to Lease to Marde Enterprises, dated February 2, 2006.

17. Annexed as Exhibit “P” is a copy of the Credit Decision Application for Marde Enterprises, listing plaintiff as the Guarantor, dated February 2, 2006.

18. Annexed as Exhibit “Q” is a copy of a letter from Nicole Mason, Customer Account Representative for Honda, to plaintiff, dated August 22, 2006.

19. Annexed as Exhibit “R” is a copy of a letter from Stephen I. Wohlberg, attorney for plaintiff, to Rudolph J. Meola, Esq., attorney for Honda, dated September 11, 2006.

20. Annexed as Exhibit “S” is a copy of a letter from Stephen I. Wohlberg, attorney for plaintiff, to Tara L. Miles., Customer Account Representative for Honda, dated September 20, 2006.

21. Annexed as Exhibit “T” is a copy of a letter from Nancy Anderson, Customer Account Representative for Honda, to plaintiff, dated October 25, 2006.

22. Annexed as Exhibit “U” is a copy of a letter from Stephen I. Wohlberg, attorney for plaintiff, to Rudolph J. Meola, Esq., attorney for Honda, dated December 14, 2006.

23. Annexed as Exhibit "V" is a copy of a letter from Stephen I. Wohlberg, attorney for plaintiff, to plaintiff, dated January 10, 2006.

24. Annexed as Exhibit "W" is a copy of a letter from Stephen I. Wohlberg, attorney for plaintiff, to Maxine Tate, Esq., dated February 5, 2007

25. Annexed as Exhibit "X" is a copy of a letter to the Court from defendants, dated January 17, 2008 [sic] regarding the unsealing of plaintiff's criminal records.

26. Annexed as Exhibit "Y" is a copy of a letter to the Court from defendants, dated January 28, 2008 [sic] regarding the unsealing of plaintiff's criminal records.

27. Annexed as Exhibit "Z" is a copy of a letter to the Court from defendants, dated March 3, 2008 regarding the unsealing of plaintiff's criminal records.

28. Annexed as Exhibit "AA" is a copy of a letter to the Court from defendants, dated April 9, 2008 regarding the unsealing of plaintiff's criminal records.

29. Annexed as Exhibit "BB" is an Order by the Honorable Kevin Nathaniel Fox, dated February 11, 2008.

30. Annexed as Exhibit "CC" is an Order by the Honorable Kevin Nathaniel Fox, dated March 12, 2008.

31. Annexed as Exhibit "DD" is an Order by the Honorable Richard M. Berman, dated April 28, 2008.

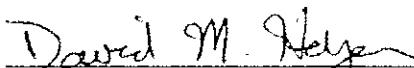
32. Annexed as Exhibit "EE" are excerpts from the deposition of Honda, by a Witness, Tara Schoolkraft, taken on May 30, 2008.

33. Annexed as Exhibit "FF" are excerpts from the deposition of Assistant District Attorney Rita Bieniewicz, taken on May 29, 2008.

34. Annexed as Exhibit "GG" are excerpts from the deposition of George Triffon, taken on May 28, 2008.

Dated: New York, New York
June 24, 2008

MICHAEL A. CARDOZO
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City of New York
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By: 
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